

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

ROSIE GUTIERREZ,

Plaintiff,

v.

CIV 09-1209 KBM

MICHAEL J. ASTRUE,
Commissioner of Social Security,

Defendant.

ORDER TO SHOW CAUSE

THIS MATTER is before the Court on Plaintiff's Motion to Proceed In Forma Pauperis (Doc. 2). Sections 1915(a) and (e) apply "to all persons applying for IFP status, and not just to prisoners." *Lister v. Dep't of Treasury*, 408 F.3d 1309, 1312 (10th Cir. 2005). The United States Supreme Court has held that IFP should be granted only if a plaintiff "cannot because of his poverty pay or give security for the costs . . . and still be able to provide himself and dependents with the necessities of life." *Adkins v. E.I. DuPont de Nemours & Co.*, 335 U.S. 331, 339 (1948). "In deciding whether to grant IFP status it is appropriate to consider plaintiff's income, the regularity of that income, his savings, as well as his financial obligations." *Curiale v. Graham*, 124 F.3d 216 (Table) at *2 (10th Cir. 1997).

Plaintiff indicates that she receives monthly Social Security Disability benefits of \$845.00 and weekly unemployment benefits of \$209.00 for a total monthly income of \$1,681.00. This amount exceeds \$925.00, the 2009 Federal Poverty Guideline for a single person family. See <http://aspe.hhs.gov/poverty/09poverty.shtml>. She further indicates that her total monthly

payments, excluding food and clothing amount to just \$472.00. Plaintiff also states that she has cash in both a bank and savings and loan association, but does not say how much. Because it appears at this juncture that Plaintiff may have the ability to pay the filing fee, I will allow Plaintiff an opportunity to either respond to these observations with more information that would justify IFP status or pay the filing fee to avoid dismissal without prejudice.

Wherefore,

IT IS HEREBY ORDERED that by January 15, 2010, Plaintiff must either file a response to this Order with more information that would justify IFP status or pay the filing fee in order to avoid dismissal of the Complaint.


UNITED STATES MAGISTRATE JUDGE